

PLEASE FILE IN CASE OF COMBINATION

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
HARRISBURG DIVISION

JOHN RICHARD SPAES  
Plaintiff

16

DR. ROBERT CLARKE et al., Defendants. MARY E. D'ANDREA, CLERK  
Per *[initials]* Deputy Clerk

HARRISBURG, PA

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PLAINTIFFS' REPLY BRIEF TO CORRECTIONS DEFENDANTS' BR  
IN OPPOSITION TO PLAINTIFFS MOTION FOR ENLARGEMENT OF TIME

COMES NOW, the Plaintiff and Pro Se Counsel in the above entitled Action, John Richard Gie, as a Layman Unlettered in the Arts & Sciences of the law, procedures within the United States & now pursuant to M.D.L.R.T., this Court files his Plaintiff's Reply Brief to Corrections Defendants' Amended Opposition to Plaintiff's motion for Enlargement of Time, Heretofore, and do hereby

Corrections Defendants claim & argue that =

"Plaintiff's Motion is nothing more than a ploy to prolong this litigation in the hopes of getting before it a suit that he was not entitled to bring in the first place."

CDrections Defendants also "lie" & claim & argue, that:

"plaintiff was not entitled to bring this suit on an in forma pauperis basis. His in forma pauperis status was rejected in other cases in this court due to his record of previous litigation. His representation to the Court in his motion for in forma pauperis status, that he was entitled to this status was false. If plaintiff had been honest and disclosed to this court that his in forma pauperis motion had been previously rejected in other cases, it is doubtful that this court would have granted plaintiff in forma pauperis status to maintain this suit."

Plaintiff, by way of reply to the above untrue & legally & factually improbable specious claims and arguments of Corrections Defendants, avers & submits that Plaintiff was & is entitled to bring this suit on an in forma pauperis basis under law, (28 U.S.C. § 1915(b)), as he claimed & set forth facts showing that he was in danger of imminent serious physical injury & that, second of all, representation to the Court in his motion for in forma pauperis status, that he was entitled to this status, was not false, but was not true, & Corrections Defendants fail to offer any evidence at all other than their claim "Yes," that such was false and what's more is that Corrections Defendants claim/argument here typifies the "fact" that, by law, 28 U.S.C. § 1915(b), Plaintiff can have thousands of prior suits dismissed as frivolous for failure to state a claim upon which relief can be granted, and since he shows that he is under danger of imminent serious physical injury, he is entitled to bring all of the suits he want in this court in forma pauperis.

And Corrections Defendants in their Motion to Revoke Plaintiff's In forma Pauperis Status and Brief in Support do in their Brief to Plaintiff's Motion for Enlargement of Time, do "not" challenge nor do they facts which this Plaintiff alleged as to why he is under imminent danger of physical injury was not untrue, nor do they offer at all proving such is untrue; that, third of all, Plaintiff did not disclose to this court in his in forma pauperis motion that his prior motion had been previously rejected in other cases, no all that Plaintiff does state that, yes, he has had three or more prior suits dismissed as frivolous for failure to state a claim upon which relief can be granted and that the facts that he is under imminent danger of serious physical injury, and that the Plaintiff's

do, herein, and thus he "has" been completely and fully honest herein to the Court, and that, fourth of all, Corrections Defendants' claim/argument, that Plaintiff had been honest and disclosed to this court that this In Forma Pauperis motion had been previously filed in other cases, it is also true that this Court would have granted Plaintiff In Forma Pauperis status if Plaintiff had filed this suit, is nothing more than mere unsubstantiated speculation. Corrections Defendants, herein, and that Corrections Defendants do nothing showing that such claim/argument of theirs here is true.

Corrections Defendants also "do" & claim/argue, that-

"In the Appendix to Corrections Defendants' Motion to Revoke Plaintiff's In Forma And its Defense Filing of Responsive Pleading To Plaintiff's Amended Complaint ("Corrections Defendants' Appendix"), the Corrections Defendants provided the court with an adequate basis for revoking Plaintiff's In Forma Pauperis Status."

By way of reply to the above-privious & especially claim and argument of Corrections Defendants, Plaintiff avers & submits, that first of all Corrections Defendants' Appendix does "not" provide this Court with adequate basis for revoking Plaintiff's In Forma Pauperis Status. What's more Corrections Defendants fail to show and/or argue anything at all showing how their Appendix provides an adequate basis for Court to revoke Plaintiff's In Forma Pauperis; and, second of all, such argument goes the law surrounding In Forma Pauperis Status and by law, all Plaintiff has to do is show that he is in imminent danger of serious physical injury and he can proceed in federal court, and that he "has" done so herein and thus Defendants' arguments here must, as a matter of law fail.

Corrections Defendants also "do" & claim/argue, that-

"In the cases giving rise to the decisions contained in Corrections Defendants' Appendix, Plaintiff made every conceivable argument in which he could oppose revocation of his In Forma Pauperis Status. The opinions in those cases comprehensively dealt with the issues raised by Plaintiff. It is doubtful that Plaintiff can come up with any new arguments, especially considering his present status. The additional time sought by Plaintiff will, in all likelihood, yield no reward. Plaintiff argues that those previous

*(See Corrections Defendants' brief in opposition to Plaintiff's Motion for Enlargement of time, at 2)*

Reuted 11/71

Rejected

By way of reply to such legally frivolous & specious claim & argument of Corrections Defendants, Plaintiff avers & submits, that, first of all, Plaintiff did "not" make every conceivable argument in which he could argue in view of his Informa pauperis status in the cases giving rise to the decisions contained therein [REDACTED] Corrections Defendants' Appendix, he only made arguments challenging the constitutionality of PLRA in such cases; and, second of all, giving the facts, the court did "not" address all of the Plaintiff's challenges as he raised in his pleadings in such cases in its opinion in such cases, such opinions in those cases did "not" completely deal with the issues raised by the Plaintiff therein such case; third of all, since this Plaintiff will "not" be arguing anything to the constitutionality of the PLRA herein this case off additional time sought by Plaintiff will, in all likelihood, new and different arguments than those previously re-

Corrections Defendants also file

11 Finally, the reasons asserted by Plaintiff for the  
need for his extension are either speculative or  
belied by the record. Plaintiff, who is confined  
in the RHU, has little if no property in his  
current possession that needs to be packed up  
for his transfer. It is the staff at St. Camp Hill,  
not Plaintiff, who is responsible for his transfers.  
Plaintiff simply needs to get on the bus.

By way of reply to the above - factually I would say also

corrections. Defendants also "claim & argue, that" "His claim of being denied access to legal materials is contradicted by his Motion for Temporary Restraining Order And/or An Expedited Preliminary Objection (hereinafter motion") filed in this case. Notwithstanding his claims of restrictions, plaintiff was able to file that motion, an affidavit and a brief in support that was replete with citations. Clearly, plaintiff has access to all the legal resources required to frame a response to Corrections Defendants' Motion To Revive Plaintiff's In Firma Plaintiff's Status And To Deny Filing Of Responsive Pleading's Plaintiff's Amended Complaint."

By way of response to such above-claim/argument of Corrections Defendants Plaintiff avers & submits, that, first of all, Plaintiff's request for an injunction at time because he has been denied his legal materials and Court can files in this case, is now moot, as on September 29, 2000, Plaintiff received his legal materials and Court case file in this case here, therefore Corrections Defendants' above-claim/argument is likewise moot, that, second, even if the above were not so, Corrections Defendants' above-claim/argument would still fail, because just because the Plaintiff has legal resources necessary to prepare one motion and does "not" automatically mean that he has the necessary legal resources needed to file a different kind of motion/brief, etc., as such he needs for one motion/brief may very well be totally different than what he needs to file another motion/brief, as was the case herein.

CORRECTIONS Defendants also "claim & argue, that" "This Court has been overly generous to Plaintiff in open its doors to him. Plaintiff repeat this court with frivolous suits and false representations. Plaintiff is not entitled to further indulgences and Plaintiff's Motion should be denied." However, by way of reply to such frivolous and specious judicial claim and argument of corrections Defendants Plaintiff avers & submits, that, the records in the cases which Plaintiff has filed in this court bear & disprove Corrections Defendants' claim argument here, as not one, in any of such ten (10) or so cases, has this court ever stated nor that any of such cases are a frivolous suit nor has this court ever held that any of such cases are a frivolous suit nor has this court ever held that Plaintiff has ever once misrepresented the facts of such cases & Corrections Defendants' counsel knows such cases to be at all and he has committed fraud and has made false representations to this court by stating such.

Correction. Defendants also claim & argue that:

- "Plaintiff asks for an enlargement of [REDACTED]/(60) days or more than in his motion and then asks that plaintiff in his motion and then asks that November 27, 2000 be set as the due date for his response, which would be a thirty day extension under plaintiff's calculations."

However, in reply to such ludicrous, specious & frivolous claim/argument Corrections Defendants, Plaintiff avers & submits, that, in his Motion for Enlargement of Time, plaintiff requests an enlargement of time of Sixty (60) days September 27, 2000, which any second grader can tell you IS NOT 27, 2000, and not only thirty days as Corrections Defendants often claim and often a moron knows this.

In D-1, of their Brief in Opposition to Plaintiff's Motion for Enlargement of Time, Corrections Defendants also claim & argue that:

- "Plaintiff admits that Corrections Defendants' Motion was served on September 8, 2000. Motion at 5. Plaintiff's Response would be due on September 25, 2000 (ten business days from September 8, 2000 plus three days for service by mail). Plaintiff contends that he received the Corrections Defendants' Motion on September 12. Id. It is unclear how he comes to calculate September 27, 2000 as the due date for his response, since ten business days from his alleged receipt of the Corrections Defendants' Motion would fall on September 25, 2000."

However, by way of response to such frivolous & specious claim/argument Corrections Defendants, Plaintiff avers & submits, that, first of all, in No. 5 of his motion for enlargement of time, herein, this Plaintiff now admits that Corrections Defendants' Motion was served on him on September 8, 2000, although he does contend (what is true) therein, that such Motion actually received by him on September 12, 2000, hereinafter and that, second [REDACTED] business days from September 12, 2000, "IS" indeed September 2000 (Plaintiff did mistakenly calculate this as September 27, 2000), and adding the three extra days for service by mail and the actual date for the Plaintiff's Reply to such motion "IS" September 29, September 29, 2000, as Corrections Defendants' "Re" claim.

Corrections Defendants also claim & argue that:

- "Plaintiff raised these same allegations in another case pending before this court - Case No. 00-CV-00001. As Defendants et al., Civil Action No. 1:00-cv-00001, Plaintiff showed, his claims of denial of access to legal property were unfounded and reflected Plaintiff's unwillingness

Confinement. For the Courts benefit's Corrections Defendants are including as an Appendix to this Brief, the filings defendants made in the V.D.R. Long, et al., Civil Action No. 1:CK-99-0071 showing the baselessness of Plaintiff's claims of denial of access to his legal property.<sup>11</sup>

However, by way of reply to such frivolous, specious & untrue claims, Plaintiff's Defendants, Plaintiff favors submits, that, first of all, Defendants have "not" showed in the V.D.R. Long, et al., Civil Action No. 1:CK-99-0071, Plaintiff's claims of denial of access to legal property were unfounded given what this Plaintiff alleged & argued therein his Answer to Reply Brief To Major Frank Dennis' Response And Opposition To Plaintiff's Motion For Order Directing SCI-Camp Hill Prison officials to return Plaintiff's Law Books And Court Case Files to him, which the Plaintiff now hereby incorporates herein by reference hereto the same and this has "not" ruled that Plaintiff's claims of denial of access to legal property were unfounded nor that Defendants showed therein such case and the Defendants are "not" entitled to such argument herein this case, nor had Defendants shown such case that such reflected Plaintiff's unwillingness to abide the requirements associated with his confinement, and, the prison officials who have shown them unwillingness to abide by & follow Mandatory Dept. of Corrections policies associated with Plaintiff's confinement here, and that, second of all, Corrections Defendants "have" violated Fed. R. Civ. P., Rule C.M.-D.L.R 4-2 of this Court, by "not" serving a copy of such Appeal to Corrections Defendants' Brief in Opposition to Plaintiff's most Enlargement of time herein, Upon this Plaintiff, this Court, law, is "not" permitted to review or consider such documents must order such struck from the record of this here case, and third of all, such claim of denial of access to legal property of Plaintiff are "not" baseless.

Corrections Defendants also "will" claim & argue, that-

<sup>11</sup> Plaintiff's claim of the need for legal research should be considered with equal respect. First of all, Plaintiff could have conducted his legal research following receipt of the Corrections Defendants' motion for opposition, explaining why he needs research.

<sup>12</sup> See Corrections Defendants' Reply to Plaintiff's Motion for Extension of Time.

resources as reflected by the brief he filed in support of his PRO/PI motion. More importantly, plaintiff has already faced similar motions in the cases relied upon in Corrections Defendants' Motion - He filed lengthy briefs in those cases complete with extensive case citations. Thus, plaintiff has already conducted his legal research on the issues presented by Corrections Defendants' motion. Whatever supplementary research needed could have been conducted in the time plaintiff originally had to file his response to Corrections Defendants' Motion.

However, by way of reply to such frivolous, specious and untrue claims by Corrections Defendants, Plaintiff avers submits that, first of all, just how could he have conducted his legal research following receipt of the Go/No Go Motion, when, as he states therein Paragraph No. 7 of his Motion For Enlargement of Time, herein, the Prison RHU Lieutenant and officers did not allow him to go to & use the Prison RHU Main Law Library here to do such legal research, a fact which Corrections Defendants fail to dispute in their brief; or that, second of all, Plaintiff does not offer any explanation as to why he did not do so in Paragraph No. 7 of his Motion For Enlargement of Time, to-wit, that the Prison RHU Lieutenant and officers would not let him go to & use the Prison RHU Library here to do such legal research; that, third of all, as already argued & set forth herein, supra, at ¶ just because Plaintiff has access to legal research resources necessary to prepare a one motion and/or brief, etc., does "not" necessarily auto mean that he also has the necessary legal research resources to prepare and file a different kind of motion, brief, etc., what he needs to prepare & file one type of motion and/or brief to be totally different than what he needs to prepare & file a different kind of motion and/or brief, as is the case as when he prepared his Motion For A Temporary Restraining Order An Expedited Preliminary Injunction and Brief In Support, herein, in the Prisoners' Self-Help Litigation Manual which he had in his possession to enable him to do so, however, for his Reply Brief in opposition to Corrections Defendants' Motion to Remove Plaintiff's In Forma Pauperis Statement of Pleading of Responsive Pleading to Plaintiff's Amended Complaint, he failed to do so.

such Shepard's Law and Legal Treatises Books are in the miniLaw Library Books here; that, fourth of all, as he already has set forth & argued herein, supra, at ¶ Plaintiff's such other cases only challenged the constitutionality of the PLRA, however herein this instant case, he will not be doing so and will be making new/different arguments herein, in response to correcting Defendants' Motion to Revoke Plaintiff's In Firma Pauperis Status, Defense Filing of Responsive Pleading to Plaintiff's Amended Complaint and therefore such legal research trip to the Prison's RHULI Library here is necessary before Plaintiff can file his Reply to such Defense Motion, herein this case, and thus, this Plaintiff "had" already conducted his legal research on the issues presented in Corrections Defendants' Motion, herein; and that, fifth of all, how could Plaintiff have conducted such supplementary legal research needed in the time he originally had to file his response to Corrections Defendants' Motion, when the Prison's RHULI Officers would "not" allow him to go to use the Prison's Law Library at all during such time period here?

Corrections Defendants also "re" claim & argue that "There is neither a factual or legal basis for Plaintiff's motion."

However, by way of reply to such specific, frivolous & untrue claim, Corrections Defendants Plaintiff avers & submits, that, based upon what he set forth in such Motion for Enlargement of Time and also what he sets forth and argues, herein this Reply Brief, the "IS" most certain a factual and a legal basis for such Plaintiff's Motion.

Finally, Correction Defendants request:

"that the court deny Plaintiff's Motion and revoke his In Firma Pauperis Status." IS

However, in response to such, Plaintiff avers & submits, this Court to do so would illegally deny Plaintiff his right to Corrections Defendants' Motion to Revoke Plaintiff's In Firma Pauperis Status with opposition brief filed for enlargement of time.

Pauper's Status And To Defend Filing Of Responsive Pleading To Plaintiff.  
Amended Complaint and would leave such unopposed, herein, would be especially egregious since such Defendants' Motion To Dismiss and by law must be denied, herein, and that the Court should "not" do:

(W) HEREFIRE, this court should grant Plaintiff's Motion For Enlargement of Time. In full, herein this case:

RESPECTFULLY SUBMITTED:

(S) — John Richard Jare  
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Plaintiff and Pro Se Counsel

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Dated: 1st OCTOBER 2000: